

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2016 Application For Registration of Indiana)
Thoroughbred Owner's and Breeder's Association.)
Pursuant to 71 IAC 13-1-1 *et seq.*)

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2016 APPLICATION FOR
REGISTRATION OF INDIANA THOROUGHBRED OWNER'S AND BREEDER'S
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter "the Commission") on an Application for Approval as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2015 [hereinafter "the Application"], submitted by the Indiana Thoroughbred Owner's and Breeder's Association (hereinafter "the Applicant" or "ITOBA") on or about September 3, 2014. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*:

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Monday, December 9, 2015, at 9:00 a.m., *or* as soon as this matter advances on the Commission's agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Indiana State Library, The Authors Room (Room 203), 315 W. Ohio St., Indianapolis, Indiana 46204. The Hearing will relate to the following Application that was filed with the Commission on or about September 1, 2015:

2016 Application for Registration of Indiana Thoroughbred Owner's and Breeder's Association, Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1- *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Thomas Weatherwax, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Lea Ellingwood, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Holly Newell, Esq. is and will act as legal counsel to the IHRC Staff during these proceedings. Ms. Ellingwood may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed

at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 North Meridian, Suite 175, Indianapolis, Indiana 46204 (tel. no. (317) 233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Thomas Weatherwax, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider ITOBA's 2016 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC sections 13-1-1 *et seq.* filed with the Commission on or about September 1, 2015, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2016 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time.

The hearing will commence at the Indiana State Library, The Authors Room (Room 203), 315 W. Ohio St., Indianapolis, Indiana, on Wednesday, December 9, 2015, at 9:00 a.m. EST or as soon as it advances on the agenda of the Commission meeting commencing at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of ITOBA's 2010, 2011, 2012, 2013, 2014, and 2015 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to ITOBA's 2010-2015 Applications for Registration. NOTE: No substantive changes to the Application made after Wednesday, December 2, 2015 will be considered as part of the Application.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant, on or before the close of business on Thursday, December 3, 2015.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, December 3, 2015. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any records of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibits to which it objects on or before noon on Friday, December 4, 2014. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibits Lists of Applicant.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit Lists are to be filed with the Commission on or before noon on Wednesday, December 2, 2015. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Wednesday, December 2, 2015. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced into the record by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Wednesday, December 2, 2015.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event that the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission’s Staff, the Commission Staff is prohibited from having ex parte communications with a Commission Member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administration Orders and Procedures Act. In appropriate circumstances a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Code section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* § II.d. *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
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Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statement	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on Applicant's presentation, any Commissioner, the Commission's counsel or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

g. Individuals Requesting Time to Speak to the Application.

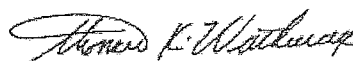
A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order.

This Notice of Hearing and Pre-Hearing Order will be served within nine days of its issuance, by first class mail, to the individuals and organizations identified on the list which is attached and identified as Exhibit "A".

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 23rd day of November, 2015.



Thomas Weatherwax, Chair
On Behalf of the Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that the a copy of the foregoing has been served upon the following parties by first class United States mail, postage prepaid, this 23rd day of November 2015.

Thomas K. Weatherwax
3012 Woodland Drive
Logansport, IN 46947

Greg Schenkel
1046 Carter's Grove
Indianapolis, IN 46260

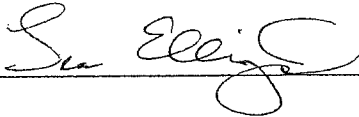
George E. Pillow, Jr.
4005 Vincennes Road
Indianapolis, IN 46268

Susie Lightle
11582 N. 980 W.
Greenfield, IN 46143

William D. McCarty
4965 W. Woodland Dr.
Bloomington, IN 47404

Deena Pitman, Executive Director
INDIANA HORSE RACING COMMISSION
1302 N. Meridian, Suite 175
Indianapolis, IN 46202
Herb Likens
ITOBA President
7609 West 300 North
Anderson, IN 46011

Diana Likens
4310 W. 8th Street
Anderson, IN 46011



Biography for Diana Likens:

I have been serving as an administrative secretary for ITOBA. I graduated from Ball State University in 1994 with a Bachelor of Science in Elementary Education and a minor in Kindergarten education. I have completed graduate studies to complement my degree and to maintain an Indiana teaching license. I am currently teaching preschool at Trinity United Methodist Church in Lapel, Indiana. I have been married to Wesley for 21 years, and we have two sons, Adam and Josh.

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2016 Application For Registration of Indiana)
Horsemen's Benevolent & Protective Association, Inc.)
Pursuant to 71 IAC 13-1-1 *et seq.*)

NOTICE OF HEARING AND PRE-HEARING ORDER
ON 2016 APPLICATION FOR REGISTRATION OF
INDIANA HORSEMEN'S BENEVOLENT & PROTECTIVE
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.

This matter comes before the Indiana Horse Racing Commission (hereinafter "the Commission") on an Application for Approval as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2016 [hereinafter "the Application"], submitted by the Indiana Horsemen's Benevolent & Protective Association, Inc. (hereinafter "the Applicant" or "IHBPA") on or about September 1, 2015. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*:

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Wednesday, December 9, 2015, at 9:00 a.m., or as soon as this matter advances on the Commission's agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Indiana State Library, The Authors Room (Room 203), 315 W. Ohio St., Indianapolis, Indiana 46204. The Hearing will relate to the following Application that was filed with the Commission on or about September 1, 2015:

2016 Application for Registration of Indiana Horsemen's Benevolent & Protective Association, Inc. Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1- *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Thomas Weatherwax, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Lea Ellingwood, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Holly Newell, Esq. is and will act as legal counsel to the IHRC Staff during these proceedings. Ms. Ellingwood may be

contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 North Meridian, Suite 175, Indianapolis, Indiana 46204 (tel. no. (317) 233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Thomas Weatherwax, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider IHBPA's 2016 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC sections 13-1-1 *et seq.* filed with the Commission on or about September 3, 2014, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2016 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time.

The hearing will commence at the Indiana State Library, The Authors Room (Room 203), 315 W. Ohio St., Indianapolis, Indiana, on Wednesday, December 9, 2015, at 9:00 a.m. EST or as soon as it advances on the agenda of the Commission meeting commencing at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of IHBPA's 2010, 2011, 2012, 2013, 2014, and 2015 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to IHBPA's 2010-2015 Applications for Registration, including, but not limited the Amended Commission Staff Report. NOTE: No substantive changes to the Application made after Wednesday, December 2, 2015 will be considered as part of the Application.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant, on or before the close of business on Thursday, December 3, 2015.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Wednesday, December 2, 2015. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any records of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibits to which it objects on or before noon on Thursday, December 3, 2015. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibits Lists of Applicant.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit Lists are to be filed with the Commission on or before noon on Wednesday, December 2, 2015. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Wednesday, December 2, 2015. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced into the record by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Wednesday, December 2, 2015.

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a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

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Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Code section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

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g. Individuals Requesting Time to Speak to the Application.

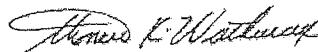
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IV. Notice of Pre-Hearing Order.

This Notice of Hearing and Pre-Hearing Order will be served within nine days of its issuance, by first class mail, to the individuals and organizations identified on the list which is attached and identified as Exhibit "A".

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 23rd day of November, 2015.



Thomas Weatherwax, Chair
On Behalf of the Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that the a copy of the foregoing has been served upon the following parties by first class United States mail, postage prepaid, this 23rd day of November 2015.

Thomas K. Weatherwax
3012 Woodland Drive
Logansport, IN 46947

Greg Schenkel
1046 Carter's Grove
Indianapolis, IN 46260

George E. Pillow, Jr.
4005 Vincennes Road
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Susie Lightle
11582 N. 980 W.
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